

San Mateo County Superior Court

***EZLEGALFILE.COM FAMILY, MARRIAGE, DIVORCE
FAQ***

1. SECTION 1: GETTING STARTED

1.1 INTRODUCTION

Q: Which issues does this program help with?

A: Initial forms or response forms about: · Child support · Spousal Support · Dissolution (Divorce) · Legal Separation · Paternity · Child Custody · Child Visitation

Q: What you will need to use this program

A: Please have the following information with you when you start answering the questions: Your date of marriage · A recent pay stub from your job if you work · A listing of any expenses you may have for work (union dues, uniforms, etc.) and expenses that you have to pay each month for your children. If you have children, please have the addresses of where they have lived for the past five years

Q: Is the information I give here private?

A: Yes. This web site is secure in order to protect your information.

Q: Can I save this information and come back to it later?

A: No, but we are working to add this feature.

1.2 HOW CAN WE HELP?

Q: Not sure what to check?

A: A case has been started if: · The other party gave or mailed you legal papers; OR · You have already filed court papers about you and the other party and/or your children; OR · You have a case number; OR · A judge has already made orders about you and the other party and/or your children If NONE of the above is true, you probably don't have a court case. You can start a case now. TIP: If you are still not sure, talk to a lawyer or go to court and ask to speak with the Family Law Facilitator.

1.3 YOU HAVE A CASE NOW

Q: How do I find the form names and numbers?

A: Look at all the forms mailed or given to you. Look at the very bottom. The name of the form is in the middle. The number is in the bottom left corner. Now look at the top right. If it is stamped "File Endorsed", the other party has filed the forms. IMPORTANT: There are important deadlines and there may be orders you must follow. Talk to an attorney or the Family Law Facilitator.

Q: Do I need the other party's forms?

A: Yes! You cannot answer without them. If you don't have a copy, go to the court where the other person filed them. You can buy a copy from the Records Unit at the Civil Clerk's office. If you want to save time, call before you go and order them. Your Info

Q: Why do we need your information?

A: We will use your information to create a form that you can file with the Court. The Court needs your address and phone number in case they have to contact you. After you file your form it becomes public record.

Q: What is a confidential address?

A: In certain cases, such as domestic violence, you are not required to provide your residence address. It is always a good idea to list a phone number, a work address or a P.O. box so the court has a means of contacting you.

1.4 YOUR CHILDREN

Q: What about other children of mine?

A: You may have children with someone else (a new partner, spouse, former spouse, etc.) that are not the subject of your present case. You do not need to list these children.

2. SECTION 2: RESPONSE TO OTHER PARTY'S FILINGS

2.1 CHILD CUSTODY REQUEST

Q: How to find the form names and numbers?

A: Look at all the completed forms that you were given (personally or mailed). Judicial Council forms have a name in bold type at the very bottom center of the page. To the left is a form number, which sometimes follows the word "Rule". Notice if the papers have a court stamp "file endorsed" in the upper right hand corner. This indicates that the other party has filed the forms. Sometimes you will be served with papers prior to filing (and no stamp appears). TIP: There may be important deadlines and time frames for your response! Are any of the forms signed by a judge? Is there a hearing date listed? Are there any restraining orders or temporary orders? If you're unsure, talk to an attorney or visit the Family Law Facilitator.

Q: Do I need a copy of the other party's forms?

A: IMPORTANT! You must have a copy of the forms that the other party filed before you begin responding. Otherwise, you will not know how to reply! If you don't have a copy, or are not sure if you have a complete set, then you must go to the court where the case is filed, and buy a copy from the Records unit of the Civil Clerk's office. (TIP: you may want to call ahead of time to order the file.)

Q: What is legal custody?

A: Legal custody means who makes decisions about the health, education and welfare of a child. There are 2 kinds of legal custody: Sole legal custody: only one parent has the right and responsibility to make these decisions; Joint legal custody: both parents share this right and responsibility.

Q: What is physical custody?

A: Physical custody means where the child lives (all of the time, or most of the time). There are 2 kinds of physical custody: Sole physical custody: the child lives with, and is supervised by one parent for most of the time; Joint physical custody: the child lives with and is supervised by both parents. Both parents have the same amount of responsibility.

2.2 CHILD VISITATION REQUEST

Q: What is visitation?

A: The law wants both parents to keep seeing the children often. When one parent has custody, the other parent has specific times with the child called "visitation".

Q: Who decides the visitation schedule?

A: Often parents can work out a schedule on their own, without the court's help. If not, the court will set a specific schedule. Example: Every Wednesday from 6 - 9 p.m. Every 2nd and 4th weekend (from Friday, 7 p.m. to Sunday, 11 a.m.).

Q: What is supervised visitation?

A: The court can order supervised visitation when the child is at risk during visitation. Examples of risk for the child: domestic violence alcohol or drug problems
-child was left in dangerous situations in the past Depending on the facts of your case, supervision can be done: at a place approved by the court by an adult family member by an adult friend

Q: How do you calculate time spent with your child?

A: You can: -Ask the Family Law Facilitator for help Do it yourself: 1. Count the number of days or hours you spend with the child 2. Divide the number by the number of days or hours in a week, month or year. Multiply by 100, so you get a percentage like 20% or 50% Tip: Use a calendar to track all time spent with the child. Parenting Plan

Q: What is mediation?

A: Mediation for child custody and visitation is a process where both parties meet with a neutral mediator. A mediator is a counselor who attempts to foster an agreement between the parents about how much time the child will spend with each. In some counties, if the parents cannot agree then the mediator will make a recommendation to the court with the judge making the ultimate decision. Child Support Request

Q: What is child support?

A: Child support is the payment of money by one parent to the other upon court order or mutual agreement of the parties to pay for the child's support, maintenance, and education. The court uses a formula to calculate a specific sum that should be paid. The formula uses the income and expense information of both parties. Child support is only for the biological children of the parties and lasts until the child reaches 18, or 19 if still in high school, and can be longer if the child is incapacitated. Spousal Support Request

Q: What is spousal support?

A: Spousal support is money paid by one spouse to the other upon court order or mutual agreement of the parties to assist the supported spouse. There are two kinds of spousal support, temporary and permanent, which have different standards to determine the amount and duration.

Q: How much support will be ordered?

A: For temporary spousal support the court may use a formula that calculates a precise dollar figure based on income and expense information provided by the parties. For permanent spousal support, the court has wide discretion and looks at a variety of factors that include the financial need of the supported spouse and the other spouse's ability to pay. The length of the marriage is also an important factor. As this can be a complicated area, you should seek help from a private attorney or the Family Law Facilitator. Attorney Fees Request

Q: What are attorney's fees?

A: Attorney fees are monies paid to a private lawyer for services such as advice, court appearances, telephone calls, preparing documents, etc. Usually when you hire an attorney you must pay a fee (called a retainer) and the work the lawyer does for your case is billed against this retainer according to the lawyer's hourly rate. Sometimes a lawyer will agree to handle only one small segment instead of your entire case (this is called "unbundled legal services"). In this arrangement, the lawyer would bill you hourly. In either situation, you can ask the court to order that the other side pay for these lawyer fees.

Q: What if I don't have an attorney?

A: If you don't have an attorney, you will not have any "attorney fees." Often, people will bring a lawyer into the case later on, and seek an order from the court to have the other party pay their legal fees. You can reserve this option by checking the appropriate box. Declaration of Paternity

Q: What is a declaration of paternity?

A: A voluntary declaration of paternity is a form that is provided to parents in the hospital upon the birth of their child. If signed by both parents it can be turned into a legal document that establishes the paternity of the child. If you've signed such a form, you should bring it with you to court. If you've signed one but cannot locate it, you can contact the hospital where the child was born, or the state program at 1(800)866-249-0773.

Q: What is paternity?

A: Paternity is a legal question. It says who the father is. If the parents are not married, paternity must be decided before child custody, visitation or child support orders are made. Affirmative Defenses

Q: What are Affirmative Defenses?

A: You are required to raise any defenses to the statements made by the other party. If you need legal advice, you should consult with a private attorney or the Family Law Facilitator.

3. SECTION 2: RESPONSE TO OTHER PARTY'S FILINGS

3.1 MARRIAGE DATES

Q: What if I don't remember the date we got married?

A: The correct date of your marriage is on your marriage certificate. If you married in California, your marriage certificate is on file with the Recorder's office in the County where you got married.

Q: What is my "date of separation"?

A: The date of separation is when one spouse (or both) decides that the marriage is over and took some actions to show this. Do you remember when you or your spouse decided the relationship was over? Do you remember what you or your spouse did or said at the time? If you do, use that date. Sometimes the date of separation is very clear. For example, the couple may have talked about it and agreed to end the relationship. Or, one spouse may have moved out and said they wanted to end the marriage. Sometimes, the date of separation is not clear. For example, one spouse may have moved out, then later moved back in. If you and your spouse do not agree on the date of separation, the judge will decide. This date can be important if you have a lot of assets or debts. Talk to a lawyer if you need help.

3.2 REQUEST FOR A DIVORCE

Q: What is a divorce?

A: "Divorce is also called "dissolution". It decides all marriage issues (property, child and spousal support, custody, visitation, etc.). It ends the marriage. After a divorce, you are single again.

Q: What is a legal separation?

A: Separation is a lot like divorce: it decides all issues in the case. But after a legal separation, you are still married.

Note: Your "date of separation" is not the same as a "legal separation".

Q: What if I want a dissolution or separation but my spouse doesn't?

A: You can still get a divorce or legal separation. You do not need your spouse's permission. If one spouse asks for divorce and the other for separation, the court will treat it as a divorce.

Q: What if I change my mind?

A: If you file for divorce or separation but change your mind before the case is finished, you can stop the proceeding. To stop the case, you need to file special papers. If you want to do this, talk to the Family Law Facilitator or a lawyer.

3.3 RESIDENCY

Q: Residency requirements for divorce

A: You or your spouse must have lived: ·In California for at least 6 months, and
· In this county (or the county where you file for divorce) for the last 3 months.

Q: Residency requirements for separation

A: There aren't any. It does not matter how long you have been in the state or county.

Q: What if neither you or your spouse meet the residency requirements?

A: If you want to start your case right away, you can file for separation, and later change it to a divorce case. For more information, talk to the Family Law Facilitator or a lawyer.

3.4 REASON FOR DIVORCE

Q: Do I need a reason to get divorced?

A: No. In California, divorce is "no fault". That means you do not have to prove whose fault the divorce is. And it does not matter who decided to end the marriage. But you must say if the divorce is because of "irreconcilable differences" or "incurable insanity". These are the only 2 reasons and you must pick one.

Q: What are "irreconcilable differences"?

A: Irreconcilable differences means that you or your spouse has decided that no amount of effort can save the marriage. Most people divorce because of irreconcilable differences.

Q: What is "incurable insanity"?

A: One of the spouses is clinically insane and there is no hope of recovery.

3.5 SEPARATE PROPERTY

Q: What is separate property?

A: It is any asset or debt acquired by either spouse before the marriage or after the date of separation, or during the marriage by gift, inheritance, or that was given to you in someone's will. Separate property means you or your spouse owns (or owes) something the other spouse does not. If you have questions about separate property, see a lawyer or the Family Law Facilitator.

Q: What is community property?

A: It is an asset or debt acquired by either spouse during the marriage. There are some exceptions. (See separate property.) Quasi-community property is real property located outside California that would be considered community property if it were in California. If you have questions about community property, see a lawyer or the Family Law Facilitator.

Q: What are assets?

A: An asset is something you own. It can be real property (land, house, etc) or an object (car, jewelry, furniture, etc.) or money (earnings, bank account, etc.) and intangibles (like a pension or retirement plan, or stocks).

Q: What are debts?

A: Debts are obligations you owe and must repay (example: a mortgage, a car loan, or a credit card bill).

3.6 SPOUSAL SUPPORT

Q: What is spousal support?

A: Spousal support is money paid by one spouse to the other by court order or agreement. There are two kinds of spousal support, temporary and permanent, which have different standards to determine the amount and duration.

Q: How much support will be ordered?

A: For temporary spousal support the court may use a formula that calculates a precise dollar figure based on income and expense information provided by the parties. For permanent spousal support, the court has wide discretion and looks at a variety of factors that include the financial need of the supported spouse and the other spouse's ability to pay. The length of the marriage is also an important factor. As this can be a complicated area, you should seek help from a private attorney or the Family Law Facilitator.

3.7 SPOUSAL SUPPORT FORMS

Q: Do I have to go to court?

A: Unless you and the other party reach an agreement, that you put in writing and file with the court, you must have a hearing. To get a court hearing, you have to file more forms. We can help you with that now. OR, you can do it later.

Q: I am having problems getting my forms

A: Adobe Reader is required to view your forms. Please click on the Adobe button now to download a free copy of the software from Adobe.

Q: I am getting an error that says, 'path not found' or some other error message

A: This is a known problem with Adobe, they have posted a few corrections to their software on their help pages. Click here to view Adobe's suggested corrections: [Configuring Internet Explorer and AOL for Windows to Display PDF Files](#) [Configuring Netscape Navigator for Windows to Display PDF Files](#) [Configuring Internet Explorer for Mac OS to Display PDF Files](#) [Configuring a Netscape Browser for Mac OS to Display PDF Files](#). Some Acrobat Capabilities Don't Work in Netscape 6.0 Browsers for Mac OS. If you are still experiencing problems please refer to Adobe support knowledgebase

4. SECTION 4: CHILDREN

4.1 CUSTODY ETC.

Q: Do I have to go to court?

A: Unless you and the other party reach an agreement outside of court, that is put in writing and filed with the court, you will have to have a hearing before a Judge to decide your issues. You must file additional forms to get a court date. You can complete the necessary forms with this program, or decide to do them on your own at a later time.

4.2 1ST CHILD RESIDENCY

Q: What if I can't remember the dates or exact addresses?

A: If you can't remember the exact date, at least put the year and the month if you can recall. For the address, make your best guess, and always list the city and state, even if you can't remember the street address.

5. CHILDREN FROM A NON-MARITAL RELATIONSHIP

5.1 1ST CHILD RESIDENCY

Q: What is paternity?

A: Paternity is a legal question. It says who the father is. If the parents are not married, paternity must be decided before child custody, visitation or child support orders are made.

Q: When is a baby conceived?

A: Conception occurs after intercourse when the male's sperm fertilizes the female's egg.

5.2 OTHER PARTY INFO

Q: What is "Public Assistance"?

A: This is money or help the government gives you to help you or your child.

Examples are:

AFDC

CalWorks

Medi-Cal

SSI

GA

GR

Food stamps

5.3 NEW CHILDREN NAME

Q: If you want to change child's name

A: Important! To change your child's name, you must file more papers with the court. The judge will decide if you can change your child's name.

You need to explain your reasons for asking for the name change, and how involved the other parent is in the child's life.

5.4 UNBORN CHILD

Q: What does 'unborn child' mean?

A: If you or the other party are pregnant with a child which is not born yet, the Court can make some decisions about this unborn child.

For example, the court can order the father to pay costs towards the pregnancy or birth.

6. SECTION 6: CHILD SUPPORT

6.1 UNBORN CHILD

Q: What is child support?

A: This is the money one parent pays to the other to support and educate their child. A judge can order child support or the parents can make an agreement.

The court uses a special formula to say how much support should be paid. The formula looks at both parents income and expenses. It lasts until the child turns 18, or 19 if still in high school. If the child has health problems it can last longer.

6.2 CHILD SUPPORT DETAILS

Q: Do I have to go to court?

A: Unless you and the other party reach an agreement outside of court, that is put in writing and filed with the court, you will have to have a hearing before a Judge to decide your issues. You must file additional forms to get a court date. You can complete the necessary forms with this program, or decide to do them on your own at a later time.

6.3 SELF EMPLOYMENT

Q: What does "self-employed" mean?

A: It means you work for yourself, not for another person or company. You do not get a regular paycheck. When you are paid, the company does not take taxes out of your check. You must pay these taxes yourself.

Examples are:

independent contractor

plumber

babysitter

hair stylist

business owner

Talk to a lawyer or your accountant for more information.

7. SECTION 7: FACTS IN SUPPORT

7.1 REQUEST EXPLANATION

No FAQs.

8. SECTION 8: FACTS IN SUPPORT

8.1 SELF EMPLOYMENT

Q: I am having problems getting my forms

A: Adobe Reader is required to view your forms. Please click on the Adobe button now to download a free copy of the software from Adobe.

Q: I am getting an error that says, 'path not found' or some other error message

A: This is a known problem with Adobe, they have posted a few corrections to their software on their help pages. Click here to view Adobe's suggested corrections:

Configuring Internet Explorer and AOL for Windows to Display PDF Files

Configuring Netscape Navigator for Windows to Display PDF Files

Configuring Internet Explorer for Mac OS to Display PDF Files

Configuring a Netscape Browser for Mac OS to Display PDF Files

Some Acrobat Capabilities Don't Work in Netscape 6.0 Browsers for Mac OS

If you are still experiencing problems please refer to Adobe support knowledgebase